

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Smt.D.Padma W/o Late D.Krishna Murthy, R/o Gali Street, Tirupathi Town, Chittoor District, filed under Section 7 of the Act 16 of 1993, against the Proceedings, dated 11.9.2006, of the District Collector, Chittoor - Appeal Rejected – Orders – Issued.

SOCIAL WELFARE (CV.2) DEPARTMENT

G.O.Ms.No.169

Dated:28-8-2008.

Read the following:-

- 1.Proceedings of the Collector, Chittoor District Roc.C3/20510/98, Dated: 11-9-2006.
- 2.Appeal Petition filed by Smt.D.Padma W/o Late D.Krishna Murthy, R/o Gali Street, Tirupathi Town, Chittoor District before M(SW), Dated: 19-10-2006.
3. Memo No.12555/CV.2/2006-1, Dated: 22-12-2006.
- 4.From Collector, Chittoor District, Roc.C3/771/2007, Dated:22-5-2007.
5. Memo No.12555/CV.2/2006-4, Dated: 17-6-2008.

ORDER:

Smt.Padma W/o Late D.Krishna Murthy, R/o Gali Street, Tirupathi, has filed appeal petition before Govt. against the Proceedings, dated 11.9.2006 issued by the District Collector, Chittoor, for cancellation of her ST “Yerukula ” Caste Certificate, and submitted the following grounds:

- i) The impugned orders of the District Collector, Chittoor, No. Roc C3/20510/1998, dated 11.9.2006 as arbitrary, illegal, and violative of principles and also Act 16 of 1993 and Rules framed there under.
- ii) The petitioner belongs to Yerukula ST caste born to Ramaiah and Malleswari at Bommiahpalle., Bangarupalyam (M)..
- iii) She studied at Bommiahpalle Ele.School upto V Class from 1966 to 1971. Her parents were illiterates and eking livelihood by manufacturing and selling bamboo baskets. Her parents brought up the appellant with much love and affection and admitted her in Boomiahpalle Ele.School. and kept her away from their tradition and custom and given in marriage to one D.Krishnamurthy of Mulabagal (V) in the State of Karnataka. Her marriage was solemnized at the age of 13 years in the year 1972 and begot a son by name Markondeya in the year 1974. Her husband died when her son was 4 months old. As such the appellant had no occasion to know about the custom and practice in their Yerukula community and is ignorant of anthropological and ethnological traits, rituals etc. prevailing in her community. On the death of her husband, she returned back to her parents fold. Her father too died in 1975. She being the eldest daughter with a kid in her arms forced to secure a job as cook in Govt. Ele.School at Bangarupalyam, and shifted her family to Bangarupalyam. She obtained her School record sheet from Head Master of Bommaihpalle on 15.6.1981. The study certificate clearly show that she belongs to Yerukala caste. Later on she applied to the Tahsildar, Bangarupalyam for issue of caste certificate who on due enquiry issued Yerukula caste certificate in his proceedings No.977/82, dated 6.11.1982. She was appointed as scavenger in the Govt. Polytechnic College for Women, Palamaner, in proceedings of Principal of College, dated 29.10.1985.

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- iv) While the petitioner was working as Attender in Govt.Polytechnic College, Palamaner, a person by name Nagaraju of Palamaner got introduced himself to the petitioner and slowly developed friendship who promised to remarry and give support to her life developed illicit intimacy with the petitioner. As the petitioner was young in age, fell in trap of above said Nagaraju and insisted upon marriage, but refused by appellant, and then Nagaraju has harassed the appellant. Due to this harassment the appellant lodged a complaint with the Police on 17.10.98.
 - v) As such the above Nagaraju bore grudge against the petitioner and her son, to set up a story against the appellant that she secured job by producing bogus ST certificate by linking the appellants name with that of his known family having a similar name H.Padma D/o H.Prakash Rao of Brahmin community who was born and brought at Gudipalle of Kuppam (M). The primary dissimilarities between petitioner D.Padma and that of H.Padma. H.Padma born 5.4.1954 joined the primary school on 12.10.1960 with admission No.156 and studied up to II class till 26.9.1962. Whereas the appellant was born on 1.6.1960 and studied up to V class i.e. till 1971 and her admission No. is 290. The Native place of H.padma is Palamaner town whereas that of appellant is Bommiahpalle (V) in Bangarupalyam (M). The father of H.Padma was a purothi and Astrologer at Gudipalli (V) near Kuppam, who had a house which was sold to one Tailor V.Munaswamy and left the native place. The husband of petitioner Krishnamurthy died in 1974, whereas the husband of H.Padma is one Doraiswamy, whereabouts of the family is not known. Taking an advantage, Sri Nagaraju linked up the appellant with that of H.Padma of Gudipalli (V), Kuppam and laid a false complaint against the appellant. The above Nagaraju has a sister by name M.Jyothi is a Secretary, SC/ST Mahila Mandali, also filed complaint on behalf of Nagaraju.
 - vi) The District Collector, after long lapse of 20 years, without due verification, ordered enquiry to the Sub-Collector, Madenapalle who has no jurisdiction over the native and study place of appellant, i.e. Bommiahpalle, Bangarupalyam (M). The Sub-Collector, Madanapalle further required the report from MRO, Palamaner and Gudupalle id devoid of jurisdiction and it is only Bangarupalyam MRO who is competent to enquire, and there upon without proper verification of records adverse report recommendation for cancellation. The report of MRO., Palamaner is violative of Rule 9.
 - vii) Further the matter also referred to the CTW., Hyderabad, based on report of MRO., Palamaner by the Collector in clear violation of Rule 9 of Rules 1997.
 - viii)The Commissioner of Social Welfare, Hyderabad, has not consideration the documentary evidence filed by the appellant which is highly illegal and unconstitutional and unsustainable.
 - ix) The appellant adduce witnesses on her behalf and oral evidence supporting her documentary evidence , but the Joint Collector, did not allow her to examine the witnesses.
- 2) In reference 3rd read above, the District Collector, Chittoor, was requested to furnish the parawise remarks on the appeal filed by Smt.D.Padma, along with connected original records. The remarks and records has been furnished by the District Collector, Chittoor, vide reference 4th read above.

3) The Case was posted for personal hearing on 20-11-2007. The appellant and her counsel were absent. Again the case posted for hearing on 27-3-2008. On 27.3.2008, the counsel for the appellant has attended and requested for adjournment. Finally the case was posted for hearing on 30-6-2008. Again the appellant and her counsel were absent.

4) On careful examination of the averments of the appellant in her affidavit, enquiry reports, documentary evidences adduced, Proceedings of the District Collector, Chittoor, and other material on file, it is found that:-

1. The grounds of the applicant in the appeal and the details of the complaint (including documentary evidences), findings of enquiry reports, it is observed that the prime question for consideration is that whether the appellant, the daughter of Ramaiah and Malleswari of Bommaipalli who married D.Krishna Murthy, had a son by name D.Markandeya and one Padma D/o Prakasa Rao (Brahman) native of Gudipalli, married to Doraiswamy and had a son Markondeya are one and the same or not. The common link between these two is their son Markondeya or Markandeya.
2. The school records of Markondeya reveals that the application form filed by D.Padma (the appellant) for admission of her son D.Markandeya into 6th class at Govt. High School, Bangarupalyam, the name of the parent is mentioned as E.Doraswamy but not Krishna Murthy. In the study certificate from this school, the name of Markandeya is written as E.Doraswamy, but not Krishna Murthy.
3. The appellant stated in appeal petition that her mother's name is Malleswari but in her statement before the Enquiry Officer from the O/o 2nd respondent (Commissioner of Tribal Welfare) that her mother's name is Bhuvaneswari.
4. In the copy of marriage invitation card furnished by the complainant, relating to the marriage of the appellant's son Markandeya held on 21-2-1994, father's name of the bridegroom (appellant's son) is mentioned as D.Surahmanyam. In the marriage invitation and from bride's parents, name of the bridegroom is mentioned as D.Markanda Reddy and his father's name as D.Subba Reddy. This marriage invitation card is proved to be genuine based on the fact that the appellant had applied for Earned Leave from 14-2-1994 to 18-2-1994 to make arrangements for her son's marriage.
5. The record sheet produced by the appellant from the Elementary School, Bommaipalli, is proved not genuine from the statement of the Retd. Head Master of the school that the record sheet is a forged one and does not relate to the School. Further, the Headmaster, MPUP School, Bommaipalli, in his letter dated:15-2-2002 addressed to the DEO.,Chittoor., stated that the name of the student, surname, father's name, caste etc. of the student D.Padma were tampered – re-written.
6. Hence, it is proved beyond doubt that the details of her native place, parentage, caste as claimed by her are not correct and inversely it is proved that she is the native of Gudipalli, daughter of Prakasa Rao, a purohit, wife of Doraswamy and belong to Brahman caste but not to Yerukala ST community.
7. Regarding her contention that the Collector's action is against the provisions of Act 16 of 1993 and Rules, is baseless, because, under section (5) and rules (9), nowhere it is prescribed that the District Collector has to entrust the enquiry to only such an officer.

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8. Further sub-rule (10) of Rule 9, an amendment issued in G.O.Ms.No. 79, SW (CV.2) department., dated:24-7-2002, the 2nd respondent i.e Commissioner of Tribal Welfare, authorized to conduct enquiry in case of Tribals and the District Collector's orders in the impugned proceedings are mainly based on the findings of enquiry by the 2nd respondent only and the contention of the appellant that the Collector relied on the report of 3rd respondent i.e. Commissioner of Social Welfare, is again baseless has nothing to do with the case of the Appellant. Therefore , it is clear that the appeal has no merits even for a glimpse of consideration and no merit of the case.

5) Therefore, in view of the above facts, and in exercise of the powers conferred under Section 7(2) of Act 16 of 1993, under Rules made there under as per G.O.Ms.No.58, SW (J) Department, dated 12.5.1997, the appeal petition filed by Smt.D.Padma W/o Late D. Krishna Murthy, is hereby rejected, upholding the Proceedings of the District Collector, Chittoor, No. ROC.C3/20510/1998, dated: 11-9-2006.

6) The records received from the District Collector, Chittoor, through the reference 4th read above, are returned herewith in original to him, and he is requested to acknowledge receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

V.NAGI REDDY,
PRINCIPAL SECRETARY TO GOVT.

To
The District Collector, Chittoor District (WE) Original Record
file bearing No's:

Vol-I	1	to 296 CF.
Vol.II	297	to 500 CF.
Vol.III	501	to 750 CF.
Vol.IV	751	to 1226 CF. and 1 to 47 NF.

Smt.D.Padma W/o Late D.Krishna Murthy,
R/o Door No.6-4-395,
Gali Street, Tirupathi Town,Chittoor District.

M/s.S.S. Bhatt and P.V.Raghuram Advocate,
301 Chandra Enclave, Balaji Nagar,
Gudimalkapur,Hyderabad.

Copy to:
The PS to Minister, TW Riad./PS to Prl.Secretary(TW)
The Director. Tribal Welfare,Hyderabad.
Sf/Sc.

//Forwarded::By Order//

SECTION OFFICER.